

Staff Summary Report



To: Mayor and City Council
Through: City Manager

Agenda Item Number 48
Meeting Date: 12/13/01

SUBJECT: PINK E'S #SGF-2001.74

PREPARED BY: Hector Tapia, Senior Planner (480-350-8331)

REVIEWED BY: Dave Fackler, Development Services Manager (480-350-8333)

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BRIEF: This is the second public hearing for Pink E's for a use permit to modify the existing business operation and add a six-lane bowling area at 93 East Southern Avenue.

COMMENTS: **PLANNED DEVELOPMENT (0406)** Hold the second public hearing for **PINK E'S** (Carlson Real Estate, property owner; Hamid Hekmatian, business owner) for a use permit to modify the existing 15,450 s.f. billiard parlor business operation and add a six-lane bowling area, located within the Valley Fair Shopping Center at 93 East Southern Avenue. The following is requested from the City of Tempe:

#SGF-2001.74 A Site Plan with a use permit to modify existing business operation and add a six-lane bowling area located at 93 East Southern Avenue.

Document Name: 20011213devsrh11

Supporting Documents: Yes

SUMMARY: On September 21, 2000, City Council approved a use permit for a time extension for a pool hall with live entertainment. This last approval was for a five-year time period. Now the applicant would like to add a six-lane bowling area to the business operation. This new area will replace some pool tables. Due to these requested changes, the Police Department reviewed and updated the existing Security Plan. The applicant signed the updated security plan. Planning staff received a phone call from a nearby resident indicating that there has been no problems with the operation of this business. Also no concerns have been received from adjacent businesses within the Valley Fair Shopping Center. The proposed six-lane bowling area should add another dimension to the business and a new service for customers. On November 29, 2001, City Council held the first public hearing for this request. Staff recommends approval subject to conditions.

RECOMMENDATION: Staff – Approval
Public – Comments

- ATTACHMENTS:**
1. List of Attachments
 2. History & Facts / Description
 3. Comments
 4. Conditions of Approval
-
- A. Location Map
 - B. Site Plan
 - C. Floor Plan
 - D. Letter of Explanation/Intent
 - E. Police Department Letters confirming Updated Security Plan

HISTORY & FACTS:

| | |
|----------------------------|---|
| <u>May 19, 1988.</u> | The City Council approved a major upgrade to the existing Valley Fair Shopping Center, including a new commercial pad for Checker Auto, use permit and variances subject to conditions. |
| <u>August 13, 1990.</u> | City Council approved for Carlson Realty Company, a site plan and variance for Valley Fair Shopping Center with a use permit to allow a 15,438 s.f. billiards/pool hall called Pink-E's, subject to conditions. |
| <u>September 10, 1992</u> | Council extended the Pink E's use permit for another two years without modifying any of the conditions of approval. |
| <u>March 16, 1995</u> | Council extended the Pink E's use permit for another two years subject to 5 conditions of approval. |
| <u>April 24, 1997</u> | Council extended the Pink E's use permit for one (1) year subject to 8 conditions of approval. |
| <u>September 18, 1997</u> | Council approved a use permit for a change of business ownership of Pink E's for one (1) year subject to 8 conditions of approval. |
| <u>November 20, 1997</u> | Council approved a use permit for live entertainment for (10) ten months subject to 8 conditions of approval. |
| <u>September 10, 1998.</u> | Council extended the Pink E's use permit for another two years subject to eight (8) conditions. |
| <u>September 21, 2001.</u> | City Council approved a use permit for a 5-year time extension for a 15,438 s.f. pool hall and live entertainment. |
| November 29, 2001. | City Council held the first public hearing for this request. |

DESCRIPTION: Business Owner - Hekmatian & Sons, Inc (Hamid Hekmatian)
Applicant – Scott A. Swinson, P.A.
Zoning - C-2
Shopping Center Site Area - 7.6 net acres
Total Building Area - 95,417 s.f.
Leased Area (Pink-E's) - 15,438 s.f.
Total Site Coverage - approx. 29%
Parking Required - 386 spaces
Parking Provided - 394 spaces

COMMENTS:

PinkE's original Use Permit for a poolhall was approved by City Council on August 9, 1990. Since its original approval on 8/9/90, Council has granted three time extensions in 1992 and 1995, a transfer of ownership in 1997, and a five-year time extension in 2000. During the first two years of operation, there were no problems reported. The next two years of business, however, some complaints were received from neighbors about PinkE's staff dumping trash in the City's refuse container behind the facility which would cause noise in the middle of the night. Also, the back door was left open which would emanate noise into the neighborhood. The problem was discussed and resolved with neighbors and City's refuse staff, and a masonry enclosure was built along the rear wall for temporary storage of trash to be transferred to the City container in the day between 7 a.m. and 10 p.m. Also, a condition restricted the use of the back door (facing the neighborhood) to emergency use only to provide noise control.

On September 21, 2000, City Council approved a transfer of ownership of PinkE's with a use permit for live entertainment. The business owners were granted approval for a five-year time period. Now, Pink-E's is requesting a use permit to modify the previously approved business operation to add a six-lane bowling alley.

According to the Police Department, a security plan was approved for PinkE's and has been enforced successfully since April 24, 1997 and updated in September 2000. To date, the applicant is working with the Police Department on a new update of the existing security plan.

Planning staff received a phone call from a near by resident indicating that there has been no problems with the operation of this business. Also no concerns have been received from adjacent businesses within the Valley Fair Shopping Center. The proposed six-lane bowling area should add another dimension to the business and a new service for customers. Staff recommends approval subject to conditions.

**REASON(S) FOR
APPROVAL:**

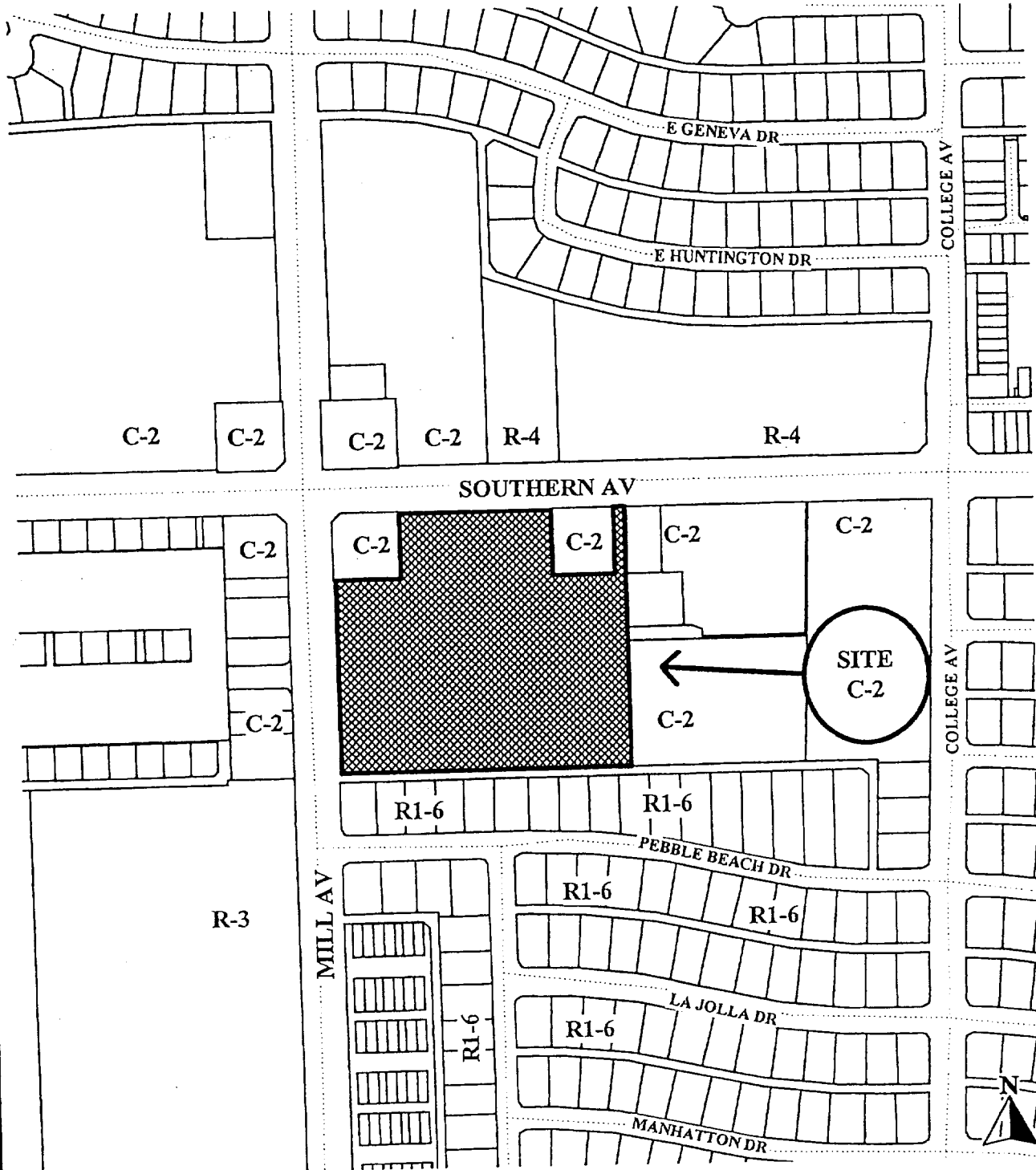
1. The owners of this business have a good record with the Police Department and Development Services.
2. The proposed floor plan modification should not create any detrimental effects to adjacent property owners or businesses within the Valley Fair Shopping Center.
3. An updated Security Plan signed by the business owners and attached conditions should help to address any foreseeable concerns.

**CONDITION(S)
OF APPROVAL:**

1. Use permit is for the **current owner of Pink-E's only**. Should the business transferred to a new owner, the new owner must reprocess to the Council for separate approval.
2. Should the business operation be modified, the current owner must reprocess to the Council for separate approval.
3. Any significant verifiable police complaints, as determined by the City Attorney and Police Department, shall require the applicant to return to the City Council for re-evaluation of the use permit at any time.
4. No noise shall emanate beyond the walls of the building. The four doors leading to the back of the shopping center shall be closed at all times and used for emergency exit only. Management shall prohibit patrons from leaving from back doors.
5. Pink-E's shall not put trash in the City refuse container between the hours of 10:00 p.m. and 7:00 a.m.
6. Live entertainment shall be limited to four (4) nights per week and start after 9:00 p.m. on weekdays and after 7:00 p.m. on Saturdays.
7. Business owner must follow the updated security plan approved by the Tempe Police Department. The use permit is conditioned at all times upon the existence of the approved security plan.

PINK - E'S FUN FOOD SPIRITS

SIP-2001.74



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PINK-E'S FUN FOOD SPIRITS

SIP-2001.74

SYMBOL(S):



EXISTING BUILDING(S)



AREA REQUESTING USE PERMIT(S)

USE PERMIT(S):

(SEE BELOW)

SITE DATA:

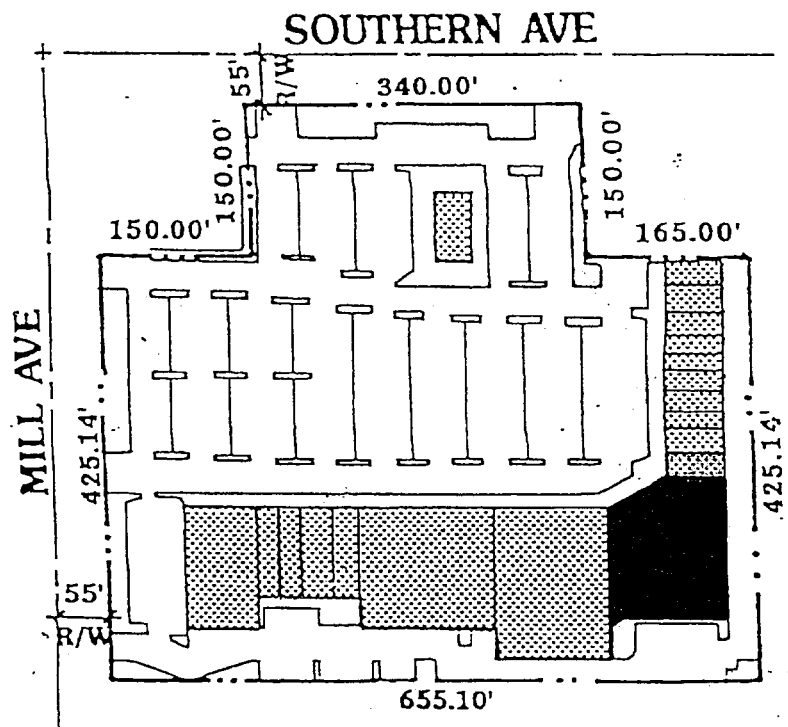
NET ACRES: 7.56

TOTAL BUILDING AREA: 95,417 S.F.

AREA PROPOSING USE PERMIT 15,450 S.F.

PARKING REQUIRED: 386

PARKING PROVIDED: 394



Request

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SCOTT A. SWINSON, P.A.
A PROFESSIONAL ASSOCIATION

1014.01

October 12, 2001

FILE NO.

Development Services Department
City of Tempe
P. O. Box 5002
Tempe, Arizona 85280

Re: Pink E's Fun Food Spirits
#SIP 90.18
Request for Revision to Use Permit

Dear Sir/Madam:

This letter is submitted by Pink E's for a revision to Use Permit #SIP 90.18 to allow Pink E's to install six (6) bowling lanes at its premises located at 93 East Southern Avenue. Copies of the floor plans of Pink E's and the location of the proposed bowling lanes are attached hereto.

The initial Use Permit was issued August 9, 1990. The previous Use Permit was renewed for a five (5) year period on September 21, 2000.

The Use Permit is issued to Hamid Hekmatian. The transfer of the Use Permit to Hamid Hekmatian from Hekmatian & Sons, Inc. was approved by the City Council on September 21, 2000.

Applicant's business is located in the Valley Fair Shopping Center at 93 East Southern Avenue. Applicant occupies 15,450 square feet, approximately 29% of the total shopping center. Attached hereto is the updated tenant list for the shopping center.

Pink E's operates a billiard parlor at which food and alcohol are served. All patrons must be at least 21 years of age to enter the facility. The Security Plan for the premises has been renewed by the City of Tempe Police Department as of October 8, 2001 and is currently in force.

The Use Permit restricts Applicant from dumping trash during the hours from 10:00 p.m. to 7:00 a.m. and no noise is to emanate beyond the walls of the premises. The Applicant has complied in all respects to these conditions and, to Applicant's knowledge, there have been no further complaints by the residents surrounding the premises about noise from the dumping of trash.

A Live Music Entertainment Use Permit was issued on November 20, 1997, which allows for live music four (4) nights per week. Live music may start after 9:00 p.m. on week days and 7:00 p.m. on Saturday. Applicant has not had any live music at the premises since September 1999 and does not have plans for live music in the foreseeable future.

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Community Development Department
City of Tempe
October 11, 2001
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Pink E's hours of operations are to 1:00 a.m. Monday thru Friday. On Saturday and Sunday hours can be extended to 3:30 a.m.; however, Applicant has not been operating during the extended hours.

Since September 21, 2000, Applicant has operated without material incident. Applicant has acted responsibly and effectively to eliminate any disturbance to surrounding residences.

Details of the site location and floor plans for the business, along with a copy of the City of Tempe Police Department Security Plan are on file with the City of Tempe.

Attached hereto is a list of the names and addresses of the tenants of Valley Fair Shopping Center and the property owners within a 300 foot radius of Pink E's. Also enclosed are mailing labels for the tenant and property owners.

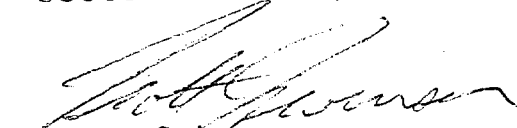
Applicant believes it has made a positive impact to the community and will continue to serve and benefit the City of Tempe.

Applicant requests that its Use Permit #SIP 90.18, after review by the City Council, be revised to allow Applicant to install six (6) bowling lanes.

I am the attorney for Applicant and am authorized to submit this application on behalf of Applicant. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

SCOTT A. SWINSON, P.A.



Scott A. Swinson

SAS:aeg

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Tapia, Hector

From: Rogers, Buck
Sent: Tuesday, November 27, 2001 8:52 AM
To: Tapia, Hector
Subject: FW: Pinke's (Valid til 11/2003)

Hector, here are the Three (3) security agreements that we have on file with Pinkies.

The Pinke's.Doc is the original security plan
The Pinke's renew 09-24-99.doc is the first renewal
The Pinke's renew 09-25-01.doc is the most recent renewal

While these do not specifically address the new bowling alley installation, it does require "Harry" to inform me of constructions changes. Harry has forwarded me a site plan which is acceptable. This "new" area actually reduces the liquor service area of his establishment. I informed Harry that I would conduct an independent site inspection when the installation of the bowling lanes commences, to determine additional security needs. (which I doubt will be required)

Please call with questions.

Buck Rogers

Licensing Specialist
Tempe Police Department
480-350-8542 (OFFICE)
480-350-8493 (FAX)

-----Original Message-----

From: Clore, Cindy
Posted At: Thursday, August 13, 1998 11:15 AM
Posted To: Security Plans
Conversation: Pinke's
Subject: Pinke's (Valid til 11/2003)



PINKE'S.DOC



Pinke'sRENEW
09-24-99.doc



Pinke's RENEW
9-25-01.doc

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Date: September 25, 2001

Reference: Automatic renewal of Security Plan for
PinkE's
93 E. Southern
Tempe, AZ 85282

Hamid Hekmatian
7250 E. Paradise Drive
Scottsdale, AZ 85260

To: Management/Owners of PinkE's

This is to inform you that your current Security Plan with the City of Tempe has almost expired. After a reexamination of your establishment we have found no specific reason not to renew your Security Plan at this time.

Please acknowledge your acceptance of this automatic renewal of your existing Security Plan by returning the enclosed document signed and dated to Buck Rogers before your expiration date of November 19, 2001. An automatic renewal means that the conditions of the original approved plan, including any amendments will remain in effect. Failure to do so may lead to the possibility of reapplying for a new Security Plan. It is a violation of Tempe City Code Chapter 11, Section 11-30 (e) to operate a Use without a Security Plan.

Should you have any questions please feel free to contact me during business hours.

Sincerely,

Bill "Buck" Rogers, Manager
Security Plans and Licensing
Tempe Police Department
480-350-8542

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Security Plan Renewal

By signing below I/We acknowledge and accept the automatic renewal of the existing Security Plan for Pinke's originally signed and dated November 19, 1997. I agree to continue to comply with all conditions during the renewal period, which will extend until November 19, 2003. At which time the plan will be re-evaluated. I also understand I can contact Buck Rogers with the Tempe Police Department at any time with any questions or concerns I may have.

Name: _____ Signature on File _____
Hamid Hekmatian

Title: Owner
Address: 93 E. Southern Ave
Tempe, AZ 85282
Phone: (480) 829-8542
Fax: (480) 894-8140

Date: __10/01/01__

In order to avoid missing the expiration date of November 19, 2001 please sign, date and mail this agreement ASAP.

Please provide information of **any changes** in management below. Include name, home address and phone.

1)

2)

3)

E2